

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

THE ART INSTITUTE OF PHILADELPHIA  
LLC, *et al.*,

Debtors.

Chapter 7

Case No. 18-11535 (CTG)

(Jointly Administered)

GEORGE L. MILLER, Chapter 7 Trustee,

Plaintiff,

v.

TODD S. NELSON, JOHN R. McKERNAN,  
SAMUEL C. COWLEY, EDWARD WEST,  
MARK A. McEACHEN, FRANK JALUFKA,  
J. DEVITT KRAMER, MARK NOVAD, JOHN  
DANIELSON, AND MICK BEEKHUIZEN,

Defendants.

JURY TRIAL DEMANDED

Adv. Proc. No. 20-50627 (CTG)

**MOTION OF DEFENDANTS WEST AND BEEKHUIZEN  
TO DISMISS THE FIRST AMENDED COMPLAINT**

Defendants Edward West and Mick Beekhuizen (“Defendants”), by and through their undersigned counsel, hereby move to dismiss with prejudice the Trustee’s First Amended Complaint dated February 15, 2022 (the “Amended Complaint”). In support of this Motion to Dismiss, Defendants rely upon the accompanying Memorandum, Request for Judicial Notice, and Declaration of Michael L. Kichline, as well as all pleadings filed with the Court in this matter.

As discussed more fully in the accompanying Memorandum, the Trustee’s Amended Complaint should be dismissed because:

1. The Management Claims asserted in Counts I and III of the Amended Complaint fail to meet the pleading requirements of the Federal Rules of Civil Procedure and Bankruptcy Rules, are legally deficient, and are barred by the applicable statutes of limitations;

2. The payment claim asserted in Count VII of the Amended Complaint is barred by the applicable statute of limitations, and otherwise is legally defective and fails to meet the pleading requirements of the Federal Rules of Civil Procedure and Bankruptcy Rules; and

3. The payment claims asserted in Counts IX and X of the Amended Complaint are legally defective and fail to meet the pleading requirements of the Federal Rules of Civil Procedure and Bankruptcy Rules.

WHEREFORE, Defendants respectfully request that the Court grant this Motion and enter an order dismissing the Trustee's Amended Complaint with prejudice and granting any such other and further relief as the Court deems just and proper.

Dated: April 1, 2022  
Wilmington, Delaware

Respectfully submitted,

RICHARDS, LAYTON & FINGER, P.A.

/s/ Marcos A. Ramos

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